

ASSEMBLY BILL

No. 78

**Introduced by Assembly Member Jones
(Coauthor: Assembly Member Torrico)**

September 3, 2009

An act to amend Section 14043.46 of the Welfare and Institutions Code, relating to adult day health care centers.

LEGISLATIVE COUNSEL'S DIGEST

AB 78, as introduced, Jones. Adult day health care centers.

The California Adult Day Health Care Act provides for the licensure and regulation of adult day health care centers, with administrative responsibility for the adult day health care program shared among the State Department of Public Health, the State Department of Health Care Services, and the California Department of Aging pursuant to an interagency agreement.

The Adult Day Health Medi-Cal Law establishes adult day health care services as a Medi-Cal benefit for Medi-Cal beneficiaries who meet certain criteria. Under existing law, participation in an adult day health care program requires prior authorization by the State Department of Health Care Services.

Existing law authorizes the State Department of Health Care Services to implement a moratorium on the certification and enrollment into the Medi-Cal program of new adult day health care centers on a statewide basis or within a geographic area, subject to certain limitations. Existing law provides that the moratorium shall not apply to certain applicants.

This bill would add applicants that are requesting expansion, have been Medi-Cal certified as an adult day health care center for at least 2 years, and located within a county having 2.25% or fewer Medi-Cal

beneficiaries over 65 years of age using adult day health care services, to the list of applicants that are not subject to the moratorium.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California is in the midst of the greatest economic crisis in
- 4 70 years.
- 5 (b) Health care costs account for approximately 28 percent of
- 6 the state budget.
- 7 (c) The average cost of adult day health care is approximately
- 8 \$12,000 per year.
- 9 (d) The average cost of nursing home care is approximately
- 10 \$59,000 per year, which is nearly five times the cost of adult day
- 11 health care.
- 12 (e) Adult day health care provides a level of service that allows
- 13 many senior citizens to avoid nursing home care. Without the
- 14 services of adult day health care centers, many senior citizens
- 15 would be unable to live independently and would require more
- 16 intensive care much sooner than would otherwise be necessary.
- 17 (f) In Sacramento County, with nearly 1.4 million people, there
- 18 are a total of six adult day health care facilities with a license
- 19 capacity of approximately 570.
- 20 (g) The loss of any adult day health care center in counties like
- 21 Sacramento County would result in fewer options for senior
- 22 citizens and greater costs to California because these citizens would
- 23 seek care in a state-sponsored nursing home or other
- 24 state-sponsored institution.

1 SEC. 2. Section 14043.46 of the Welfare and Institutions Code
2 is amended to read:

3 14043.46. (a) Notwithstanding any other provision of law, on
4 the effective date of the act adding this section, the department
5 may implement a one-year moratorium on the certification and
6 enrollment into the Medi-Cal program of new adult day health
7 care centers on a statewide basis or within a geographic area.

8 (b) The moratorium shall not apply to the following:

9 (1) Programs of All-Inclusive Care for the Elderly (PACE)
10 established pursuant to Chapter 8.75 (commencing with Section
11 14590).

12 (2) An organization that currently holds a designation as a
13 federally qualified health center as defined in Section 1396d(l)(2)
14 of Title 42 of the United States Code.

15 (3) An organization that currently holds a designation as a
16 federally qualified rural health clinic as defined in Section
17 1396d(l)(1) of Title 42 of the United States Code.

18 (4) An applicant with the physical location of the center in an
19 unserved area, which is defined as a county having no licensed
20 and certified adult day health care center within its geographic
21 boundary.

22 (5) Commencing May 1, 2006, an applicant for certification
23 that meets all of the following:

24 (A) Is serving persons discharged into community housing from
25 a nursing facility operated by the City and County of San Francisco.

26 (B) Has submitted, after December 31, 2005, but prior to
27 February 1, 2006, an application for certification that has not been
28 denied.

29 (C) Meets all criteria for certification imposed under this article
30 and is licensed as an adult day health care center pursuant to
31 Chapter 3.3 (commencing with Section 1570) of Division 2 of the
32 Health and Safety Code.

33 (6) An applicant that is requesting expansion or relocation, or
34 both, that has been Medi-Cal certified as an adult day health care
35 center for at least four years, is expanding or relocating within the
36 same county, and that meets one of the following population-based
37 criteria as reported in the California Long Term Care County Data
38 Book, 2002:

1 (A) The county is ranked number one or two for having the
2 highest ratio of persons over 65 years of age receiving Medi-Cal
3 benefits.

4 (B) The county is ranked number one or two for having the
5 highest ratio of persons over 85 years of age residing in the county.

6 (C) The county is ranked number one or two for having the
7 greatest ratio of persons over 65 years of age living in poverty.

8 (7) *An applicant that meets all of the following criteria:*

9 (A) *Is requesting expansion.*

10 (B) *Has been Medi-Cal certified as an adult day health care*
11 *center for at least two years.*

12 (C) *Is located within a county having 2.25 percent or fewer*
13 *Medi-Cal beneficiaries over 65 years of age using adult day health*
14 *care services, based on 2002 calendar year Medi-Cal utilization*
15 *data.*

16 ~~(7)~~

17 (8) An applicant for certification that is currently licensed and
18 located in a county with a population that exceeds 9,000,000 and
19 meets the following criteria:

20 (A) The applicant has identified a special population of regional
21 center consumers whose individual program plan calls for the
22 specialized health and social services that are uniquely provided
23 within the adult day health care center, in order to prevent
24 deterioration of the special population's health status.

25 (B) The referring regional center submits a letter to the Director
26 of Health Services supporting the applicant for certification as an
27 adult day health care provider for this special population.

28 (C) The applicant is currently providing services to the special
29 population as a vendor of the referring regional center.

30 (D) The participants in the center are clients of the referring
31 regional center and are not residing in a health facility licensed
32 pursuant to subdivision (c), (d), (g), (h), or (k) of Section 1250 of
33 the Health and Safety Code.

34 (c) The moratorium shall not prohibit the department from
35 approving a change of ownership, relocation, or increase in capacity
36 for an adult day health care center if the following conditions are
37 met:

38 (1) For an application to change ownership, the adult day health
39 care center meets all of the following conditions:

1 (A) Has been licensed and certified prior to the effective date
2 of this section.

3 (B) Has a license in good standing.

4 (C) Has a record of substantial compliance with certification
5 laws and regulations.

6 (D) Has met all requirements for the change application.

7 (2) For an application to relocate an existing facility, the
8 relocation center must meet all of the conditions of paragraph (1)
9 and both of the following conditions:

10 (A) Must be located in the same county as the existing licensed
11 center.

12 (B) Must be licensed for the same capacity as the existing
13 licensed center, unless the relocation center is located in an
14 underserved area, which is defined as a county having 2 percent
15 or fewer Medi-Cal beneficiaries over the age of 65 years using
16 adult day health care services, based on 2002 calendar year
17 Medi-Cal utilization data.

18 (3) For an application to increase the capacity of an existing
19 facility, the center must meet all of the conditions of paragraph
20 (1) and must be located in an underserved area, which is defined
21 as a county having 2 percent or fewer Medi-Cal beneficiaries over
22 the age of 65 years using adult day health care services, based on
23 2002 calendar year Medi-Cal utilization data.

24 (d) Following the first 180 days of the moratorium period, the
25 department may make exceptions to the moratorium for new adult
26 day health care centers that are located in underserved areas if the
27 center's application was on file with the department on or before
28 the effective date of the act adding this section. In order to apply
29 for this exemption, an applicant or licensee must meet all of the
30 following criteria:

31 (1) The applicant has control of a facility, either by ownership
32 or lease agreement, that will house the adult day health care center,
33 has provided to the department all necessary documents and fees,
34 and has completed and submitted all required fingerprinting forms
35 to the department.

36 (2) The physical location of the applicant's or licensee's adult
37 day health care center is in an underserved area, which is defined
38 as a county having 2 percent or fewer Medi-Cal beneficiaries over
39 the age of 65 years using adult day health care services, based on
40 2002 calendar year Medi-Cal utilization data.

1 (e) During the period of the moratorium, a licensee or applicant
2 that meets the criteria for an exemption as defined in subdivision
3 (d) may submit a written request for an exemption to the director.

4 (f) If the director determines that a new adult day health care
5 licensee or applicant meets the exemption criteria, the director
6 may certify the licensee or applicant, once licensed, for
7 participation in the Medi-Cal program.

8 (g) The director may extend this moratorium, if necessary, to
9 coincide with the implementation date of the adult day health care
10 waiver.

11 (h) The authority granted in this section shall not be interpreted
12 as a limitation on the authority granted to the department in any
13 other section.

14 SEC. 3. This act addresses the fiscal emergency declared by
15 the Governor by proclamation on December 19, 2008, pursuant
16 to subdivision (f) of Section 10 of Article IV of the California
17 Constitution.

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